

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track at-grade crossing for the Exposition Boulevard Corridor Light Rail Transit Line across Jefferson Boulevard, Adams Boulevard, and 23rd Street, all three crossings located along Flower Street in the City of Los Angeles, County of Los Angeles, California.

And Consolidated Proceedings.

**Application 06-12-005**  
(Filed December 6, 2006)

Application 06-12-020  
(Filed December 19, 2006)

Application 07-01-004  
(Filed January 2, 2007)

Application 07-01-017  
(Filed January 8, 2007)

Application 07-01-044  
(Filed January 24, 2007)

Application 07-02-007  
(Filed February 7, 2007)

Application 07-02-017  
(Filed February 16, 2007)

Application 07-03-004  
(Filed March 5, 2007)

Application 07-05-012  
(Filed May 8, 2007)

Application 07-05-013  
(Filed May 8, 2007)

**MOTION TO RECONSIDER THE SCOPING MEMO AND RULING OF  
ASSIGNED COMMISSIONER DETERMINING THE SCOPE, SCHEDULE, AND  
NEED FOR HEARING**

**DAMIEN WESLEY CLARK GOODMON**  
Executive Director, Get LA Moving  
3062 Stocker Place  
Los Angeles, CA 90008

On Behalf of  
EXPO COMMUNITIES UNITED  
P.O. Box 781267  
Los Angeles, CA 90016

Expo Communities United (“ECU”) hereby files this “Motion to Reconsider the Scoping Memo and Ruling of Assigned Commissioner Determining the Scope, Schedule, and Need for Hearing,” (“Scoping Ruling”) pursuant to California *Code of Civil Procedure* 1008(a), which holds:

“any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend or revoke the prior order.”

In consideration of the Los Angeles Unified School District's (“LAUSD” or “District”) change from information only to party in the proceeding, and Position Statement of the LAUSD (“Position Statement”), both filed on December 17, 2007, ECU timely requests reconsideration of the Scoping Memo and Ruling of Assigned Commissioner Determining the Scope, Schedule and Need for Hearing (“Scoping Memo”). Specifically, ECU requests evidentiary hearing at the following 15 proposed at-grade crossings where the most recent pedestrian traffic counts available to the Exposition Metro Line Construction Authority (“Expo Authority” or “Authority”) identify school youth pedestrian traffic: Washington Blvd/Flower, 23<sup>rd</sup> Street/Flower, Adams Blvd/Flower, 28<sup>th</sup> Street/Flower, Jefferson/Flower, Vermont Ave/Exposition, Raymond/Exposition, Normandie/Exposition, Halldale/Exposition, Denker/Exposition, Western/Exposition, Gramercy Place/Exposition, Arlington/Exposition, Crenshaw/Exposition, and Buckingham/Exposition. ECU further requests evidentiary hearings at the following 4 proposed at-grade crossings where the Authority's traffic counts reflect less youth pedestrian traffic that can conceivably be shown to be greater now and in the future during school months, than at the time measured: 30<sup>th</sup> St/Flower, Trousdale Parkway/Exposition, 7<sup>th</sup> Ave/Exposition, and 11<sup>th</sup> Ave/Exposition.

## I. INTROUDUCTION

The Scoping Memo by Commissioner Simon wisely determined that an evidentiary

hearing was needed for the Farmdale/Exposition crossing where the Authority's most recent student youth pedestrian traffic counts show 1793 movements at the crossing during the 6 hours of the day from 7 am to 10 am and 3 pm to 6 pm.<sup>1</sup> However, the addition of facts made available by the LAUSD in their Position Statement indicate new significant, substantial material evidence.

Among the evidence presented in the Position Statement, is the Board of Education's "Keeping Kids Safe" resolution which states:

"That the District is opposed to the operation of any at-grade design of the Expo Light Rail Line along streets in close proximity to school sites, unless it is demonstrated that alternative mitigation measures will eliminate all safety hazards."

The following elementary and secondary LAUSD schools are within 0.3 miles, which is considered reasonable walking distance, of the Expo Line tracks:

- Dorsey High School at Farmdale/Exposition (30 feet)
- Foshay Learning Center at Harvard/Exposition (50 feet)
- Ted Alexander Elementary School (50 feet)
- Orthopedic Medical Magnet High School (300 feet)
- Weemes Elementary School
- Bright Elementary School
- Virginia Road Elementary School
- Adams Middle School
- Clinton Middle School
- 6<sup>th</sup> Avenue Elementary School (2 blocks from an Expo Line crossing)
- 32<sup>nd</sup> Street Magnet School
- Baldwin Hills Elementary School
- Lanterman Special Education School

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1 ECU finds these times insufficient as students can be expected to arrive and depart school outside these hours en route to buses to other schools and, in the case of Dorsey HS and other HS, during lunch hours.

Additionally, three private schools are also within 0.3 miles of the tracks:

- Al-Madinah School
- West Angelus Church of Christ School
- Turning Point School (Culver City)

A visual of the proximity of the schools is illustrated in Exhibit A.<sup>2</sup>

The schools are in densely populated urban areas that require school children to walk on thoroughfares with large vehicular traffic and cross major streets and intersections. The youth pedestrian traffic counts at several of the crossings are illustrated in Table 1. Evidentiary hearings are required at these crossings to allow the Commission to evaluate whether the Expo Authority's proposed mitigation measures will eliminate all safety hazards to address the community and District's concerns.

Table 1:

CROSSING	STUDENT MOVEMENTS <sup>3</sup>	DATE COLLECTED	ADDITIONAL INFORMATION
Washington/ Flower	33	7-14-06	Crossing is directly adjacent to LA Trade Tech College and at the intersection of the Blue and Expo Lines. Count can be expected to increase as the current automotive buildings are converted to traditional classrooms. Both streets are major thoroughfares.
23 <sup>rd</sup> St/Flower	92	8-9-06	Crossing is 300 feet west from the property line of Orthopedic Medical Magnet HS and 0.3 mile from Lantherman Special Education School. Flower is a major thoroughfare.
Adams/Flower	25	8-21-06	Crossing is 300 feet west of the property line of Orthopedic Medical Magnet HS. Intersection is a complicated convolution of five streets less than 300 feet from the I-110 freeway off-ramp.
28 <sup>th</sup> St/Flower	42	10-11-06	Crossing is 0.3-mile west of Adams Middle

2 ECU respectfully request the full visual be viewed online at the following web address:  
<http://maps.google.com/maps/ms?ie=UTF8&hl=en&msa=0&msid=103975155675344153156.00043de0b1d37893a3e95&z=13&om=1>

3 The student movements are not reflective of overall student traffic as discussed in Section II.

			School. Flower is a major thoroughfare with traffic that was described by Expo Authority consultant as "very fast and erratic as drivers merge onto the HOV lane just south of 28 <sup>th</sup> Street" in Field Diagnostic Meeting notes.
30 <sup>th</sup> St/Flower	0	8-16-06	Crossing is 0.3-mile west of Adams Middle School.
Jefferson/ Flower	3	8-21-06	Traffic count data collected prior to the opening of Clinton Middle School which is 0.3-mile southeast of the crossing, and prior to the opening of the University of Southern California's 10,258 seat Galen Center, which has several after-school activities intended to provide recreational opportunities to the community's local youths.
Trousdale/ Exposition	0	8-25-06	Crossing is located 500 feet west of Ted Alexander Science Center Elementary Center.
Vermont/ Exposition	152	9-19-06	The student youth pedestrian crossings at this intersection can be expected to increase as nearby crossings of Catalina, Wisconsin and Budlong will be closed to student traffic en route to Weemes Elementary. Requests for youth pedestrian traffic data were not made available by the Expo Authority. The crossing is directly adjacent to Jesse Brewer Park.
Raymond/ Exposition	139	1-12-06	Weemes Elementary is 900 feet north of the crossing.
Normandie/ Exposition	162	8-17-06	Normandie is a major thoroughfare with on and off-ramps to the I-10 freeway.
Halldale/ Exposition	232	2-22-06	Crossing is next to the Dalton Ave street closure.
Denker/ Exposition	295	1-9-06	Crossing is on a major path to school (and part of the Safe Walks to School program) for Foshay Learning Center and the only crossing between Denker and Western is a pedestrian tunnel that is not ADA accessible.
Western/ Exposition <sup>4</sup>	1124	8-18-06	The crossing is a stone's throw from Foshay Learning Center. Western Blvd. is a major thoroughfare with on and off ramps to the I-10 freeway.

4 ECU hereby joins the Neighbors for Smart Rail's Motion for Reconsideration of the Scoping Memo and Ruling of Assigned Commissioner Concerning Western Avenue/Exposition Boulevard Crossing (A.) 07-02-007, and their Comments to the Proposed Decision of ALJ Koss and Neighbors for Smart Rail's Comments on the Harvard Tunnel (Application A0612020). Our only point of clarification relates to the Expo Authority's misrepresentation of the facts regarding the frequency of trains. The document that Expo Authority provided to RCES on March 23, 2007, which was made available to ECU through discovery shows that when responding to RCES' question regarding train frequency that 240 trains per day with 4 minute peak hour headways were being planned (see Exhibit B).

Gramercy Pl/ Exposition	15	8-11-06	The crossing is 0.4 miles directly south of Holy Names School (K-8)
Arlington/ Exposition	5	8-15-06	Arlington is a major thoroughfare with on and off ramps to the I-10 freeway just two miles north. Closing crossings at 2 <sup>nd</sup> , 3 <sup>rd</sup> , and 4 <sup>th</sup> Avenues will led to more pedestrian crossings at this complicated intersection.
7 <sup>th</sup> Ave/ Exposition	0	8-24-06	Crossing is 0.3-mile directly south of 6 <sup>th</sup> Avenue ES. Additionally, closing crossings at 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> Avenues will lead to more student youth traffic at this crossing.
11 <sup>th</sup> Ave/ Exposition	0	8-15-06	Crossing is 0.3-mile east of Al-Madinah School, a private Muslim school.
Crenshaw/ Exposition	21	8-14-06	Crossing is in close proximity to two non-LAUSD schools, but schools with student youth traffic nonetheless: Al-Madinah School, which is directly adjacent to the crossing, and West Angelus Church of Christ school which is 0.3 miles away at Crenshaw/30 <sup>th</sup> Street.
Buckingham/ Exposition	42	1-13-06	Student youth traffic can be expected to increase as current pedestrian crossings across the ROW between Farmdale and Buckingham will lead to more crossings at Buckingham for pedestrians en route to Dorsey HS.

These crossings pose not just a risk of young student pedestrian-train collisions, but also pose a risk from the ricochet of cars or derailment of trains from vehicular-train accidents. Additionally, as was expressed in ECU's Opening and Reply Briefs, several other aspects of the crossing designs, such as placing thoroughfare traffic lanes closer to narrow sidewalks, where kids walk to and from school, and use of red light cameras, increase the risk of vehicular-pedestrian accidents with young students.

## **II. THE PEDESTRIAN TRAFFIC COUNTS ARE INCOMPLETE AND AN INSUFFICIENT REFLECTION OF STUDENT YOUTH PEDESTRIAN TRAFFIC FOR 9 MONTHS OUT OF THE YEAR AND IN THE FUTURE**

The counts represent the most recent and only pedestrian crossings traffic counts made available to ECU through an information request that was directed to Expo Authority Project Executives Rick Thorpe, Eric Olson and Joel Sandberg, and Expo Authority Counsel Martin Mattes (see Exhibit C). As illustrated above on Table 1, almost all of the

youth pedestrian counts were conducted during the summer months of July and August 2007 when most schools were not in full session and thereby are not an accurate reflection of the student youth pedestrian traffic to school and to bus stops to other schools (both public and private).

Additionally, the student movements only reflect current crossings. The Expo Authority's closure of several adjacent crossings, which are currently routes to school, will lead to greater youth pedestrian traffic at many of the crossings, to say nothing of the additional traffic generated by rail stations. According to the email discussion with the Expo Authority executives and Mattes, pedestrian traffic counts for several of these proposed closed intersections were not in possession of the Expo Authority.

Additionally, in the Position Statement, LAUSD mentions school expansion and construction projects. ECU welcomes LAUSD as an official party and believe through evidentiary hearing of the crossings all proposed expansions that will cause more youth pedestrian and vehicular traffic at the crossings would better help the Commission determine the safety hazards of the crossings so that the Commission can ensure the designs are safe. Indeed, the absence of this vital data requires further inquiry and evidentiary hearing as the Commission cannot legally approve crossings without a firm understanding of all traffic data and conditions around the crossings.

### **III. THE DESIGN AT THE CROSSINGS IS PROVEN DEFECTIVE AND THEIR MITIGATION MEASURES ARE ATTRACTIVE NUISANCES**

The closure of the many nearby street crossings will lead to student youth jaywalking<sup>5</sup> en route to children being hit by trains and vehicles at crossings that don't even have bare minimum traffic lights, as evidence by the man who was killed just last month by a Blue Line train after hopping a fence (see Exhibit D). In this respect, the Expo Line tracks and train and the illusory fences, which ECU must again stress are reflected no where in

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<sup>5</sup> ECU respectfully directs the Commission's attention to video evidence at [www.youtube.com/fixexpo](http://www.youtube.com/fixexpo)

the crossing designs in the case of Foshay Learning Center, constitute attractive nuisances.

Additionally, ECU has repeatedly pointed to facts and evidence that indicate that the crossing designs and the conditions in which they are placed is unsafe and proven defective, as evidenced by the astronomical Blue Line accident and death rate (more than 795 accidents and 89 deaths to date). To place the hazards of the design in context one must consider that it has been 12 months since the Expo Authority's first application was filed with the Commission. In a similar span of time, 12 months, from June 2006 to June 2007, 8 people were killed by the Authority's Blue Line, which is 22 miles long and serves roughly 70-75,000 riders per day. Comparatively, according to the American Public Transportation Association ("APTA") statistic of light rail fatalities from 1990-2002 (see Exhibit E), 12 years of operation of the entire San Francisco Muni system, which serves 164,000 riders per day and has over 73 miles of track, were required to kill the same number of people. Indeed, the light rail systems of Philadelphia, Boston, Denver, Salt Lake City, Baltimore, Dallas, New Orleans, St. Louis, Pittsburgh, Buffalo, Cleveland and Newark all had less than 8 deaths in those same 12 years.

Perhaps the point needs to be reiterated, so it is not confused or dismissed as vague: it takes 12 years or more, for entire light rail systems throughout the nation, to kill the number of people that the Authority's light rail Blue Line, one line, kills in one year.

Indeed, to surpass the 61 people who were killed by the Blue Line from 1990 – 2002, one must add the deaths from the 7 largest light rail systems in the country, both in track miles and ridership, to surpass the number of deaths from the one light rail line, the Authority's Blue Line (see Table 2).



Table 2 – APTA Extraction:

LIGHT RAIL SYSTEM	TRACK MILES	DAILY RIDERSHIP	DEATHS
San Francisco	73	164,000	8
Philadelphia	69	84,000	7
Boston	51	231,000	6
San Diego	47	75,000	22
Dallas	44	39,000	3
Portland	38	81,000	14
St. Louis	34	42,000	2
<b>TOTAL:</b>	<b>356</b>	<b>716,000</b>	<b>62</b>

Allow the point be reiterated lest it be confused or dismissed as vague: to surpass the number of light rail deaths over the same 12 year period of time that occur on one line, the MTA/Expo Authority's Blue Line, the deadliest most-accident prone light rail line in the country, one must combine the number of deaths from the seven largest light rail systems in the country.

Additionally, the Authority has frequently referenced the newness of the Expo Line system as a red herring intended to distract the Commission from the inherent safety hazards of at-grade crossings on the Expo Line corridor in these conditions as proven by the Blue Line accident and fatality rates, yet of the seven systems in Table 2, all except St. Louis (1993) and Dallas (1996), began operation before the Blue Line (1990), and the overwhelming majority of lines in the systems have fewer safety mitigations measures at their at-grade crossings than are currently operational on the Blue Line.

ECU has presented facts and evidence – primarily the MTA's own documents, namely the Booz-Allen Hamilton study of 1998 (see Exhibit F), which was commissioned by the MTA to explain what makes the Blue Line unique. The facts presented in ECU's documents, specifically the Opening and Reply Brief, clearly prove that the conditions

on the Exposition Line corridor are equal and more intense and will lead to death and injury. Evidentiary hearing is required so these facts can be thoroughly examined by the Commission.

#### **IV. THE COMMISSION HAS IT'S OWN HEAVY BURDEN TO PROVE REGARDING LIGHT RAIL AT-GRADE CROSSINGS**

Further evaluation of the APTA statistic shows that five out of the six deadliest light rail systems are operated in the state of California, under the Commission's jurisdiction (see Table 3).

Table 3 – APTA Extraction:

<b>NATIONAL RANKING</b>	<b>LIGHT RAIL SYSTEM</b>	<b>FATALITIES</b>	<b>TRACK MILES</b>	<b>DAILY RIDERSHIP</b>
#1	MTA Blue Line (in L.A.)	61	22	70,000
#2	San Diego	22	47	75,000
#4	Sacramento	14	21	31,000
#5	San Jose	9	31	30,000
#6	San Francisco	8	73	164,000
	<b>TOTAL</b>	<b>114</b>	<b>194</b>	<b>370,000</b>

Comparatively, the 13 other light rail systems that operate outside the state of California, and thereby outside the Commission's jurisdiction, accounted for 52 deaths, which is less than one half the deaths for more than twice the number of systems over nearly twice the number of track miles that serve nearly twice as many riders (see Table 4).

Table 4 – APTA Extraction:

NATIONAL RANKING	LIGHT RAIL SYSTEM	FATALITIES	TRACK MILES	DAILY RIDERSHIP
#3	Portland, Ore.	14	38	81,000
#7	Philadelphia	7	69	84,000
#8	Boston	6	51	231,000
#9	Denver	6	17	35,000
#10	Salt Lake City	5	18	28,000
#11	Baltimore	4	29	24,000
#12	Dallas	3	44	39,000
#13	New Orleans	2	16	14,000
#14	St. Louis	2	34	42,000
#15	Pittsburgh	2	18	25,000
#16	Buffalo	1	6	23,000
#17	Cleveland	0	15	15,000
#18	Newark, N.J.	0	9	8,000
	<b>TOTAL</b>	<b>52</b>	<b>364</b>	<b>649,000</b>

Even removing the Blue Line as an outlier shows a significantly higher death per track mile rate in the state of California under the Commission's jurisdiction than in other states. Allow ECU to state it clearly so the point is not confused or dismissed as vague: pedestrians and motorists crossing American light rail tracks that are under the Commission's jurisdiction are significantly more likely to die than pedestrians and motorists crossing American light rail tracks outside the Commission's jurisdiction. In consideration of this fact, the Commission has a heavy burden to prove it actually understands light rail grade crossing safety issues and takes seriously its voter-entrusted and federally-mandated responsibility. Indeed, this fact forces the question whether the Commission's definition of "minimum safety standard"<sup>6</sup> meets the mandate as expressed in *City of San Mateo*, which was covered at length in the Reply

<sup>6</sup> On Pg. 3 of the Comments of the Rail Crossings Engineering Section of the Consumer Protection and Safety Division on the Proposed Decision of ALJ Koss, RCES argues: "[T]he Commission need only find that the highway-rail crossings as proposed by the applicant meet minimum safety standards."

Brief of ECU and other protest documents. The facts show that on application the Commission's "minimum safety standard" is clearly much lower and more deadly than the minimum safety standards for light rail crossings in other American states.

This abysmal safety record in comparisons to its peers, places a burden on the Commission to ensure light rail crossings are only approved after going through full due process of law, which include evidentiary hearings.

#### **V. EVIDENTIARY HEARINGS WERE PROVIDED IN THE PASADENA BLUE LINE CASE AT CROSSINGS WITH SIGNIFICANTLY MORE MITIGATION MEASURES AND SIMILAR OR LESS YOUTH PEDESTRIAN TRAFFIC THAN MOST PROPOSED AT-GRADE EXPO LINE CROSSINGS**

In the Pasadena Blue Line case, an evidentiary hearing was provided when the Rail Crossings Engineering Section protested the Mount Washington Avenue 45 crossing where only 20 young students crossed everyday<sup>7</sup> and four-quad gates were proposed. Comparatively, of the majority of the crossings listed in Table 1, only Arlington/Exposition, 7<sup>th</sup> Ave/Exposition, 11<sup>th</sup> Ave/Exposition and Buckingham/Exposition even have crossing gates (though ECU has previously presented evidence that the crossing designs present other hazards that aren't mitigated by the crossing gates for each crossing).

The silence from RCES and the Commission's Legal Division in these crossings is deafening. Indeed, the evidentiary hearing at Farmdale Ave/Exposition is only the result of ECU's protest. What possible confidence can the public have in RCES and the Legal Division when they turn a blind eye to the Expo Authority's application, including the Farmdale application that requests Commission permission to operate 225-ton trains at 55 mph, 30 feet from the property line of a 2100 student high school,

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<sup>7</sup> Reply Brief of the Los Angeles to Pasadena Metro Blue Line Construction Authority in Application 00-10-012 et al, in response to staff protest of Avenue 45: "Regarding the risk to school children, the RCES witness acknowledged that only some 20 school children walk across the right-of-way each day, or two per hour from when the children start to school and then go home. Tr. 1842 (Moussa/RCES)."

240 times a day, with nearly 2000 student youth pedestrian movements per day? As identified in the Opening and Reply Briefs of ECU, RCES has multiple documents and statements where they express concerns, often strongly, about the crossing designs. Yet when the applications were filed they sat silent at all crossings, except where youth pedestrian traffic is significantly less to non-existent (LA Trade Tech crossings at Flower Street driveways).

Why RCES and the Commission's Legal Division do not consider the lives of young South Los Angeles children as endangered by trains as the children crossing at Avenue 45 in the Pasadena Blue Line case is beyond the understanding of ECU and the parents, teachers, students and community members it stands for, especially since the Expo Line crossings have significantly less mitigation and more complicated crossing designs. Regardless, ECU believes RCES and the Legal Division's participation in the Pasadena Blue Line case and evidentiary hearings resulted in solutions that were safer, albeit minimally, at those crossings, and believe similar evidentiary hearings would result in safer solutions at the crossings.

**VI. THE APPLICANT'S DESIGN WHICH PROVIDES A GREATER LEVEL OF SAFETY FOR CHILDREN AT PREDOMINANTLY WHITE TURNING POINT SCHOOL IN CULVER CITY, COMPARED TO PREDOMINANTLY MINORITY SCHOOLS IN LOS ANGELES IS A VIOLATION OF CALIFORNIA LAW**

The crossings identified in Table 1 are all adjacent to or en route to majority-minority elementary and secondary schools in the City of Los Angeles. Comparatively, the crossing at Washington Blvd/National Blvd in the City of Culver City, and in an area that is predominantly white and is adjacent to Turning Point School, an elementary school that is predominantly white, is grade separated<sup>8</sup>. The negotiation that transpired with the City of Culver City that resulted in an overpass at that location was highlighted at pp. 6-7 of the Opening Brief of ECU, which referenced the project's

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<sup>8</sup> Pg. 4 of ECU's Motion to Enter Evidence Into The Record Regarding The Increase in Project Budget.

Record of Decision by the Federal Transit Administration. The result of the negotiation is a design that does not comply with CEQA requirements for environmental justice, as greater safety risk is imposed on majority-minority young students walking to school and greater environmental impacts to majority-minority elementary and secondary learning environments than white young students at predominantly white schools.

## VII.CONCLUSION

Throughout the proceeding ECU has supplied exhaustive and substantive facts and evidence that explain the cause of the Blue Line accidents and deaths, while simultaneously and convincingly proving that the design conditions and characteristics on the Expo Line corridor are similar and more intense than the Blue Line. Until recently, the Expo Authority has made it appear as though ECU was simply a “few disgruntled voices”<sup>9</sup> who stand alone with these concerns. With the change in status of the LAUSD and their Position Statement it is clear that at least one major public entity is willing to strongly express their concerns in this venue. ECU submits that through evidentiary hearing others will as well.

ECU can only imagine the amount of political pressure placed on the Commission and Commission's staff to rush these proceedings (see Exhibit G). However, far too many are too comfortable to use that external and irrelevant political reality as the basis to abdicate the Commission's responsibility to the public. While, as in the case of Los Angeles Council Member and Expo Authority Board Member Bernard Parks and California State Senator Sheila Kuehl, some politicians will be politicians, the Commission, like all other government oversight agencies, has a specific duty.

Political excuses for Commission staff's silence and expedited proceedings in the face of catastrophes ring hollow. For while any employee or appointee can always find another

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<sup>9</sup> Pg. 7 of Testimony of Expo Authority CEO Rick Thorpe in Opening Brief of Exposition Metro Line Construction Authority.

job, the children and their parents who will die, because of the failure of the Commission to do its voter-approved and FTA-entrusted duties, cannot be resurrected. The negative repercussions will haunt this Commission, from RCES to the Legal Division up to the Commissioners for as long as it keeps rail crossing safety under its jurisdiction.

The Commission has been presented with the design of another Blue Line, the black eye of rail safety in the country, and the Scoping Memo suggest approving the at-grade applications without evidentiary hearings. Evidentiary hearings which would allow the difficult questions to be asked and arguments to be made in a public square by internationally recognized engineers and public entities. The Scoping Memo, along with the failure of the Commission to provide legal assistance to communities and individuals, like Mr. Damien Goodmon, who do not have sufficient resources to afford legal representation is a failure of justice (see Exhibit G)<sup>10</sup>.

The new evidence provides the Commission an opportunity to amend these mistakes. Approving the crossings in the face of new evidence without evidentiary hearings would mark the beginning of the end of whatever remains of the Commission's reputation as it relates to light rail safety, or perhaps that began when RCES and the PUC Legal Division decided the many crossings near large urban elementary and secondary schools or routes to school weren't worth protesting. All activities in the state legislature to move the responsibility of rail oversight to another agency would be completely justified. State Attorney General and federal investigations into the conduct of the agency, and appropriate review of Commissioners regarding their willingness to bow to political pressures will be completely justified. And if the Expo Line is constructed as proposed by the Authority, the lawsuits from the assured accidents and deaths along with the public scrutiny will be the Commission's nail in the coffin.

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<sup>10</sup> In addition to Exhibit G, Mr. Goodmon strenuously stated the financial hardship the case had on him and ECU to ALJ Koss, Legal Division Patrick Berge and Expo Authority's Martin Mattes in the Conference Call on November 2, 2007. Additionally, approving crossings because of legal technicalities that failed to be followed by community members who are not lawyers and who have been denied legal representation is *prima facie* prejudicial.

Fingers will be pointed to this record, for it will be crystal clear that this entity enables unsafe rail crossing designs.

To quote Congresswoman Diane Watson's statement, delivered by her Chief Deputy Charles Stewart at the November 5, 2007 Public Participation Hearing, AFTER the Scoping Memo was issued:

**"This community is not yet convinced that all that can and should be done to ensure the line's safety here at Dorsey and at the other crossings near our community's schools has been done. I urge that you scrutinize the requirements, the plans and the options for safety as rigorously, as vigorously as possible. Don't give MTA a break at the expense of the children of this neighborhood. Don't give us second safety - less than students at USC or worse than the residents of Culver City."**

If it is safe, and if it can be shown to this community to be safe, then build it. If not, send Expo back to the drawing board.

We can lose time on Expo. We can find money. But we can't afford and **we will not forgive you if we lose lives, if we lose children**." (emphasis added)

Respectfully submitted,

/s/ DAMIEN W.C. GOODMON

Damien W.C. Goodmon

on behalf of Expo Communities United

P.O. Box 781267

Los Angeles, CA 90016

Tel: (323) 932 - 1959

Email: expocommunities@gmail.com

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